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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,849	12/20/2006	Christelle Mauger	P08983US00/BAS	5417
881 7590 11/20/2008 STITES & HARBISON PLLC 1199 NORTH FAIRFAX STREET SUITE 900 ALEXANDRIA, VA 22314				
EXAMINER DAVIS, BRIAN J				
ART UNIT 1621		PAPER NUMBER		
MAIL DATE 11/20/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/556,849

**Applicant(s)**

MAUGER ET AL.

**Examiner**

Brian J. Davis

**Art Unit**

1621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 September 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 47, 56, 59 and 64-85 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 47, 56, 59 and 64-85 is/are rejected.  
7) ☒ Claim(s) 69 and 70 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections Withdrawn***

The objection to claim 49, outlined in the previous Office Action, has been overcome by applicant's amendment. The amendment cancels the claim.

### ***112 Rejections Withdrawn***

The rejection of claims 47-64 under 35 USC 112, first paragraph, outlined in the previous Office Action, has been overcome by applicant's amendment. With respect to claims 48-55, 57, 58 and 60-63, the amendment cancels the claims. With respect to the remaining claims, the amendment narrows the claim set such that the invention is enabled.

The rejection of claims 47-85 under 35 USC 112, second paragraph, outlined in the previous Office Action, has been overcome by applicant's amendment. With respect to claims 48-55, 57, 58 and 60-63, the amendment cancels the claims. With respect to the remaining claims, the amendment clarifies the claim set such that the claims are no longer indefinite.

### ***Claim Objections, NEW***

Claims 69 and 70 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim may depend from a preceding claim in the alternative only. See MPEP § 608.01(n).

***Claim Rejections - 35 USC § 112, NEW***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 47, 56, 65, 72, 78, 80, 81 and 83 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "optionally" in these claims is used in the sense of "such as," or "for example." That is, for instance in claim 47 in the definition of substituent Y of formula (IIc), the definitions which follow the term "optionally" are examples of leaving groups. However, the phrase like "such as" or "for example" render the claims indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Analysis of the remaining claims is similar.

This rejection should have been included in the previous Office Action. The examiner regrets the error.

The remaining claims are also rejected under 35 USC 112, second paragraph, as claims which depend from indefinite claims are also indefinite. *Ex parte Cordova*, 10 USPQ 2d 1949, 1952 (PTO Bd. App. 1989).

***Allowable Subject Matter***

The subject matter of the claims would be allowable once the objections and 112 rejections outlined above have been overcome.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Davis whose telephone number is 571-272-0638. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel M. Sullivan can be reached at 571-272-0779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian J. Davis/  
Primary Examiner, Art Unit 1621  
11/18/08